

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

YOHANCE JOSEPH LACOUR,)	
)	
Movant,)	
)	
vs.)	Case No. 4:10CV01156 ERW
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Movant Yohance Joseph Lacour's ("Movant") Motion for Leave to Amend and for Order Directing the Government to Respond to Amended 28 U.S.C. § 2255 Motion [doc. #10].

Postconviction motions for relief under § 2255 must be filed within one year of the date on which the judgment became final, § 2255(f), and it is undisputed that although Movant's initial Motion was timely, his proposed amendments come after that one-year period has expired. Untimely amendments to § 2255 motions are permitted as allowed by Federal Rule of Civil Procedure 15(c), which provides, among other things, that amendments "relate back" to the original filing for statute of limitations purposes if they "assert[] a claim or defense that arose out of the conduct, transaction, or occurrence set out – or attempted to be set out – in the original pleading." Fed. R. Civ. P. 15(c)(1)(B); *see also Dodd v. United States*, 614 F.3d 512, 515 (8th Cir. 2010).

All of Movant's claims for relief – both in his initial Motion and in his proffered Amended Motion – are premised on allegations of ineffective assistance of counsel. The newly-asserted claims therefore arise out of the same "conduct, transaction, or occurrence" as those in

his timely initial Motion, and the Court therefore concludes that he will be granted leave to amend.

Accordingly,

IT IS HEREBY ORDERED that Movant's Motion for Leave to Amend and for Order Directing the Government to Respond to Amended 28 U.S.C. § 2255 Motion [doc. #10] is **GRANTED**.

IT IS FURTHER ORDERED that the Government shall file a Response to Movant's Amended Motion no later than **February 21, 2011**.

Dated this 5th Day of January, 2011.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written over a horizontal line.

E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE